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Attorneys for Defendant PINNACLE CREDIT SERVICES, LLC, erroneously sued and served as PINNACLE CREDIT SERVICES, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROBERT MICHAEL WILLIAMS,

Plaintiff,

vs.

TRANSUNION, LLC, EXPERIAN
INFORMATION SOLUTIONS, INC.;
EQUIFAX INFORMATION SERVICES,
LLC, AMERICAN EXPRESS TRAVEL
RELATED SERVICES, INC.; DISCOVER
FINANCIAL SERVICES; PINNACLE
CREDIT SERVICES, INC.; ASSET
ACCEPTANCE, LLC; and NATIONAL
CREDIT ADJUSTERS, LLC.

Defendants.

Case No. C-07-5956 CRB

**SEPARATE STATEMENT REGARDING
DISPUTED DISCOVERY RESPONSES
SUBMITTED IN SUPPORT OF MOTION TO
COMPEL FURTHER RESPONSES TO
INTERROGATORIES AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

Date: October 24, 2008

Time: 10:00 a.m.

Courtroom: 8, 19th Floor

PINNACLE CREDIT SERVICES, LLC, (hereinafter referred to as "PINNACLE")
submits the following separate statement regarding disputed discovery responses in support of its
motion to compel further responses to interrogatories and request for production of documents:

INTERROGATORIES

INTERROGATORY NO. 1

Describe each of your consumer accounts that is the subject of your claims against
PINNACLE in this lawsuit (the consumer accounts identified in the response to this interrogatory
hereinafter will be referred to as "the Accounts" in these interrogatories.

RESPONSE TO INTERROGATORY NO. 1:

Plaintiff objects to this Interrogatory on the basis that the Interrogatory is vague and ambiguous as to the term “your”.

ARGUMENT

This case involves a claim by plaintiff that PINNACLE violated the Fair Credit Reporting Act (FCRA) and the Fair Debt Collection Practices Act (FDCPA) regarding one or more of his consumer accounts. The pleadings do not specify the identity of the account(s) that plaintiff claims is the subject of his claims against PINNACLE.

This interrogatory sought to have plaintiff describe the account(s) that are the subject of his claims against PINNACLE. Rather than do that which presumably would be a fairly simple task, plaintiff objected to the use of the term “your” in the interrogatory.

Common sense must be used when responding to discovery. Ordinary definitions must be used in interpreting common terms and phrases. The use of the term “your” does not require a technical definition and is certainly not a vague term, although plaintiff would have been certainly entitled to explain his understanding of the term when responding to the interrogatory if any ambiguities existed. Plaintiff made no effort to meet and confer regarding the term “your” prior to responding to the interrogatory.

A further response to this interrogatory without objections is appropriate.

INTERROGATORY NO. 2

If you contend that you are not responsible for any portion of the debt attributable to the Accounts, state each fact upon which you base the contention.

RESPONSE TO INTERROGATORY NO. 2

Plaintiff objects to this Interrogatory on the basis that the interrogatory is overly broad, unduly burdensome, vague and ambiguous. However, subject to and without waiving said objection, Plaintiff directs Defendant Pinnacle to the previously produced letter from the original creditor stating that Plaintiff is not responsible for the debt.

ARGUMENT:

This interrogatory seeks to determine if plaintiff is denying responsibility for any amount claimed to be owed on the account(s). This would seem to be a fairly simple response, however, plaintiff has refused to provide a simple straightforward response. Instead, plaintiff has raised several frivolous objections and referenced some letter that he claims to have produced previously in the case.

The objections that this interrogatory is overly broad and unduly burdensome are without merit. The interrogatory simply asks if plaintiff contends that he is not responsible for any portion of the debts attributed to his consumer accounts that are the basis of his claims against PINNACLE. There is nothing overbroad about that question. If plaintiff contends that a question is overbroad, it is his obligation to answer that portion of the question that is proper and provide a meaningful explanation of the basis for the objection. *Mitchell v. National R.R. Passenger Corp.* (D DC 2002) 208 FRD 508, 512. He has failed to do that.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

Finally, the response is inadequate and improper. Plaintiff's attempt to reference some unknown document is improper. PINNACLE is entitled to a response that is complete in and of itself without reference to other materials including other documents. *Scaife v. Boenne* (ND IN 2000) 191 FRD 590, 594.

A further response to this interrogatory without objections is appropriate.

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INTERROGATORY NUMBER 3:

Identify each credit reporting agency that you contend notified PINNACLE that you disputed any information being reported by PINNACLE regarding the Accounts.

RESPONSE TO INTERROGATORY NO. 3

Plaintiff objects to this Interrogatory to the extent it calls for hearsay speculation, and the Interrogatory is vague, ambiguous and fails to specify a reasonable date and time.

ARGUMENT:

Plaintiff alleges in ¶30 of his complaint that consumer reporting agencies notified PINNACLE that plaintiff disputed the accuracy of the information reported by PINNACLE. This interrogatory asks plaintiff to identify which credit reporting agencies contacted PINNACLE regarding any account(s) that are subject of this lawsuit.

Rather than provide the requested information, plaintiff responding with frivolous objections that are without merit. This interrogatory simply asks plaintiff to identify each credit reporting agency that he contends contacted PINNACLE regarding the accounts involved in this lawsuit. Plaintiff's response is patently evasive.

The objections that the interrogatory calls for hearsay and speculation are without merit. These are not valid objections to discovery.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

The objection that the interrogatory fails to specify a reasonable date and time is also without merit. The interrogatory obviously only addresses the issues that are the subject of this lawsuit. Plaintiff is the person who can set the parameters of date and time in that regard.

A further response to this interrogatory without objections is appropriate.

INTERROGATORY NO. 4:

State the date that PINNACLE was notified by each credit reporting agency that you disputed any information being reported by PINNACLE regarding the Accounts.

RESPONSE TO INTERROGATORY NO. 4:

Plaintiff objects to this Interrogatory to the extent it calls for hearsay speculation, and the Interrogatory is vague, ambiguous and fails to specify a reasonable date and time.

ARGUMENT:

Plaintiff alleges in ¶30 of his complaint that consumer reporting agencies notified PINNACLE that plaintiff disputed the accuracy of the information reported by PINNACLE. This interrogatory asks plaintiff to identify when credit reporting agencies contacted PINNACLE regarding any account(s) that are subject of this lawsuit.

Rather than provide the requested information, plaintiff responding with frivolous objections that are without merit. This interrogatory simply asks plaintiff to identify when each credit reporting agency contacted Pinnacle regarding the accounts involved with his dispute with PINNACLE. The response is patently evasive.

The objections that the interrogatory calls for hearsay and speculation are without merit. These are not valid objections to discovery.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

The objection that the interrogatory fails to specify a reasonable date and time is without merit. The interrogatory obviously only addresses the issues that are the subject of this lawsuit. Plaintiff is the person who can set the parameters of date and time in that regard.

A further response to this interrogatory without objections is appropriate.

INTERROGATORY NO. 5:

State the content of each notification by a credit reporting agency to PINNACLE that you disputed any information being reported by PINNACLE regarding the Accounts.

RESPONSE TO INTERROGATORY NO. 5:

Plaintiff objects to this Interrogatory to the extent it calls for hearsay speculation, and the Interrogatory is vague, ambiguous and fails to specify a reasonable date and time.

ARGUMENT:

Plaintiff alleges in ¶30 of his complaint that consumer reporting agencies notified PINNACLE that plaintiff disputed the accuracy of the information reported by PINNACLE. This interrogatory asks plaintiff to identify what information that plaintiff contends that PINNACLE was advised by the credit reporting agencies regarding any account(s) that are subject of this lawsuit.

Rather than provide the requested information, plaintiff responding with frivolous objections that are without merit. This interrogatory simply asks plaintiff what PINNACLE was advised by each credit reporting agency regarding the accounts involved in the dispute with PINNACLE. The response is patently evasive.

The objections that the interrogatory calls for hearsay and speculation are without merit. These are not valid objections to discovery.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

The objection that the interrogatory fails to specify a reasonable date and time is also without merit. The interrogatory obviously only addresses the issues that are the subject of this lawsuit. Plaintiff is the person who can set the parameters of date and time in that regard.

A further response to this interrogatory without objections is appropriate.

INTERROGATORY NO. 6:

Describe the inaccurate information that you contend that PINNACLE has furnished to any credit reporting agency regarding the Accounts.

RESPONSE TO INTERROGATORY NO. 6:

Plaintiff objects to this Interrogatory on the basis that the Interrogatory is vague and ambiguous. However, subject to and without waiving said objection, Plaintiff directs Defendant Pinnacle to the previously produced documents, which show that Pinnacle re-aged, furnished and verified account(s) as "collection account".

ARGUMENT:

Plaintiff alleges in ¶28 of his complaint that PINNACLE furnished inaccurate information to credit reporting agencies regarding him. This interrogatory asks plaintiff to identify what inaccurate information was furnished by PINNACLE to any credit reporting agencies regarding any account(s) that are subject of this lawsuit.

Rather than provide the requested information, plaintiff responding with frivolous objections that are without merit. This interrogatory simply asks plaintiff to identify what inaccurate information was provided by PINNACLE to each credit reporting agency. The response is patently evasive.

The objections that the interrogatory calls for hearsay and speculation are without merit. These are not valid objections to discovery.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

The objection that the interrogatory fails to specify a reasonable date and time is also without merit. The interrogatory obviously only addresses the issues that are the subject of this

lawsuit. Plaintiff is the person who can set the parameters of date and time in that regard.

A further response to this interrogatory without objections is appropriate.

INTERROGATORY NO. 11:

Identify all communications between you and PINNACLE regarding the Accounts.

RESPONSE TO INTERROGATORY NO. 11:

Plaintiff objects to this Interrogatory on the basis that the Interrogatory is vague and ambiguous, and fails to specify a reasonable date and time.

ARGUMENT:

Plaintiff has claimed that he personally contacted PINNACLE regarding his account(s). PINNACLE has no record of any such contacts. PINNACLE simply wants plaintiff to identify all communications between him and PINNACLE that plaintiff claims occurred. Plaintiff did not provide any information in response to this interrogatory.

The objections to this interrogatory are without merit. This interrogatory simply asks plaintiff to identify all communications between him and PINNACLE regarding the accounts that are the subject of his claims against PINNACLE.

The objections that the question is vague and ambiguous are also without merit. If there is somehow any ambiguity, it is plaintiff's obligation to respond to this interrogatory by attributing ordinary definitions to the terms and phrases utilized in the interrogatory. He has made no effort to provide a meaningful response to this interrogatory by attempting to resolve any claimed ambiguities by clarifying any supposed ambiguities in the response or attempting to meet and confer to clarify any ambiguities. *Pulsecard, Inc. v. Discover Card Services, Inc.* (D KS 1996) 168 FRD 295, 310; *Beach v. City of Olathe, Kans.* (D KS 2001) 203 FRD 489, 497.

The objection that the interrogatory fails to specify a reasonable date and time is also without merit. The interrogatory obviously only addresses the issues that are the subject of this lawsuit. Plaintiff is the person who can set the parameters of date and time in that regard.

A further response to this interrogatory without objections is appropriate.

REQUEST FOR PRODUCTION OF DOCUMENTS

REQUEST TO PRODUCE NO. 1:

All documents relating to each consumer account that is the subject of your claims against PINNACLE in this lawsuit (the consumer accounts referenced by this request will hereinafter be referred to as “the Accounts” in these requests to produce).

RESPONSE TO REQUEST TO PRODUCE NO. 1:

Plaintiff objects to this Document Request on the grounds that it is overly broad and unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs Defendant Pinnacle to the documents that had been produced previously.

ARGUMENT:

This case involves a claim by plaintiff that PINNACLE violated the FCRA and the FDCPA regarding one or more of his consumer accounts. The pleadings do not specify the identity of the account(s) that plaintiff claims is the subject of his claims against PINNACLE.

PINNACLE has requested that plaintiff produce all documents regarding each consumer account involved in this lawsuit. Instead, plaintiff has objected to the discovery and simply referred PINNACLE to all documents that he has previously produced in this case. This response fails for two reasons.

First, the objections to this request are without merit.

Plaintiff has provided no basis for the objections that the request is overly broad and unduly burdensome as required and it is unclear how the request could be overly broad and unduly burdensome since it only requests that plaintiff produce the documents that he has regarding his accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v. Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

Second, plaintiff's attempt to refer PINNACLE to documents that have been previously produced is an improper response. PINNACLE has just appeared in this case and has not been served with any documents that supposedly were previously produced. In addition, the response must specifically identify documents that are responsive to the request. *Frontier-Kemper Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring

PINNACLE to all of the documents that may have been produced in this case by all of the parties to this lawsuit does not meet the requirements or spirit of the discovery procedures.

A further response to this document request without objections is appropriate.

REQUEST TO PRODUCE NO. 2

All documents which you believe support your claim that you are not responsible for any portion of the debt attributable to the Accounts.

RESPONSE TO REQUEST TO PRODUCE NO. 2:

Plaintiff objects to this Document Request on the grounds that it is overly broad and unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs Defendant Pinnacle to the documents that had been produced previously.

ARGUMENT:

This request seeks production of any documents that plaintiff believes supports any claim by him that he is not responsible for any portion of the debt attributed to any of the accounts that are the subject of this lawsuit. This would seem to be a fairly simple response, however, plaintiff has refused to provide a simple straightforward response. Instead, plaintiff has objected to the discovery and simply referred PINNACLE to all documents that he has previously produced in this case. This response fails for two reasons.

First, the objections to this request are without merit.

Plaintiff has provided no basis for the objections that the request is overly broad and unduly burdensome as required and it is unclear how the request could be overly broad and unduly burdensome since it only requests that plaintiff produce the documents that he has regarding his accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v. Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

Second, plaintiff's attempt to refer PINNACLE to documents that have been previously produced is an improper response. PINNACLE has just appeared in this case and has not been served with any documents that supposedly were previously produced. In addition, the response must specifically identify documents that are responsive to the request. *Frontier-Kemper*

1 *Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring
 2 PINNACLE to all of the documents that may have been produced in this case by all of the parties to
 3 this lawsuit does not meet the requirements or spirit of the discovery procedures.

4 A further response to this document request without objections is appropriate.

5
 6 **REQUEST TO PRODUCE NO. 3:**

7 All written communications between you and credit reporting agencies regarding the
 8 Accounts.

9 **RESPONSE TO REQUEST TO PRODUCE NO. 3:**

10 Plaintiff objects to this Document Request on the grounds that it is overly broad and
 11 unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs
 12 Defendant Pinnacle to the documents that had been produced previously.

13 **ARGUMENT:**

14 Plaintiff alleges in ¶29 of his complaint that he notified credit reporting agencies that
 15 he was disputing the reports by PINNACLE regarding his accounts. In ¶30 of his complaint, he
 16 alleges that the credit reporting agencies notified PINNACLE regarding plaintiff's disputes. In ¶32
 17 of his complaint, plaintiff alleges that PINNACLE failed to properly respond to the credit reporting
 18 agencies regarding his disputes. In addition, plaintiff has claimed in other documents that he
 19 personally contacted PINNACLE regarding his accounts.

20 Accordingly, PINNACLE has requested plaintiff to produce all documents in his
 21 possession regarding these communications. Instead, plaintiff has objected to the discovery and
 22 simply referred PINNACLE to all documents that he has previously produced in this case. This
 23 response fails for two reasons.

24 First, the objections to this request are without merit.

25 Plaintiff has provided no basis for the objections that the request is overly broad and
 26 unduly burdensome as required and it is unclear how the request could be overly broad and unduly
 27 burdensome since it only requests that plaintiff produce the documents that he has regarding his
 28 accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v.*

1 *Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

2 Second, plaintiff's attempt to refer PINNACLE to documents that have been
3 previously produced is an improper response. PINNACLE has just appeared in this case and has
4 not been served with any documents that supposedly were previously produced. In addition, the
5 response must specifically identify documents that are responsive to the request. *Frontier-Kemper*
6 *Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring
7 PINNACLE to all of the documents that may have been produced in this case by all of the parties to
8 this lawsuit does not meet the requirements or spirit of the discovery procedures.

9 A further response to this document request without objections is appropriate.

10
11 **REQUEST TO PRODUCE NO. 4:**

12 All written communications between any credit reporting agency and PINNACLE
13 regarding the Accounts.

14 **RESPONSE TO REQUEST TO PRODUCE NO. 4:**

15 Plaintiff objects to this Document Request on the grounds that it is overly broad and
16 unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs
17 Defendant Pinnacle to the documents that had been produced previously.

18 **ARGUMENT:**

19 Plaintiff alleges in ¶29 of his complaint that he notified credit reporting agencies that
20 he was disputing the reports by PINNACLE regarding his accounts. In ¶30 of his complaint, he
21 alleges that the credit reporting agencies notified PINNACLE regarding plaintiff's disputes. In ¶32
22 of his complaint, plaintiff alleges that PINNACLE failed to properly respond to the credit reporting
23 agencies regarding his disputes. In addition, plaintiff has claimed in other documents that he
24 personally contacted PINNACLE regarding his accounts.

25 Accordingly, PINNACLE has requested plaintiff to produce all documents in his
26 possession regarding these communications. Instead, plaintiff has objected to the discovery and
27 simply referred PINNACLE to all documents that he has previously produced in this case. This
28 response fails for two reasons.

1 First, the objections to this request are without merit.

2 Plaintiff has provided no basis for the objections that the request is overly broad and
3 unduly burdensome as required and it is unclear how the request could be overly broad and unduly
4 burdensome since it only requests that plaintiff produce the documents that he has regarding his
5 accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v.*
6 *Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

7 Second, plaintiff's attempt to refer PINNACLE to documents that have been
8 previously produced is an improper response. PINNACLE has just appeared in this case and has
9 not been served with any documents that supposedly were previously produced. In addition, the
10 response must specifically identify documents that are responsive to the request. *Frontier-Kemper*
11 *Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring
12 PINNACLE to all of the documents that may have been produced in this case by all of the parties to
13 this lawsuit does not meet the requirements or spirit of the discovery procedures.

14 A further response to this document request without objections is appropriate.

15
16 **REQUEST TO PRODUCE NO. 5:**

17 All written communications between you and PINNACLE regarding the Accounts.

18 **RESPONSE TO REQUEST TO PRODUCE NO. 5:**

19 Plaintiff objects to this Document Request on the grounds that it is overly broad and
20 unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs
21 Defendant Pinnacle to the documents that had been produced previously.

22 **ARGUMENT:**

23 Plaintiff alleges in ¶29 of his complaint that he notified credit reporting agencies that
24 he was disputing the reports by PINNACLE regarding his accounts. In ¶30 of his complaint, he
25 alleges that the credit reporting agencies notified PINNACLE regarding plaintiff's disputes. In ¶32
26 of his complaint, plaintiff alleges that PINNACLE failed to properly respond to the credit reporting
27 agencies regarding his disputes. In addition, plaintiff has claimed in other documents that he
28 personally contacted PINNACLE regarding his accounts.

1 Accordingly, PINNACLE has requested plaintiff to produce all documents in his
2 possession regarding these communications. Instead, plaintiff has objected to the discovery and
3 simply referred PINNACLE to all documents that he has previously produced in this case. This
4 response fails for two reasons.

5 First, the objections to this request are without merit.

6 Plaintiff has provided no basis for the objections that the request is overly broad and
7 unduly burdensome as required and it is unclear how the request could be overly broad and unduly
8 burdensome since it only requests that plaintiff produce the documents that he has regarding his
9 accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v.*
10 *Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

11 Second, plaintiff's attempt to refer PINNACLE to documents that have been
12 previously produced is an improper response. PINNACLE has just appeared in this case and has
13 not been served with any documents that supposedly were previously produced. In addition, the
14 response must specifically identify documents that are responsive to the request. *Frontier-Kemper*
15 *Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring
16 PINNACLE to all of the documents that may have been produced in this case by all of the parties to
17 this lawsuit does not meet the requirements or spirit of the discovery procedures.

18 A further response to this document request without objections is appropriate.

19
20 **REQUEST TO PRODUCE NO. 7:**

21 All documents that contain any facts upon which you base your claim that
22 PINNACLE violated 15 USC §1692, et seq. as alleged in the Third Claim of your lawsuit.

23 **RESPONSE TO REQUEST TO PRODUCE NO. 7:**

24 Plaintiff objects to this Document Request on the grounds that it is overly broad and
25 unduly burdensome. Plaintiff further objects to this Document Request to the extent it requires
26 plaintiff to produce documents that are obtained by a representative of Plaintiff in anticipation of
27 litigation or for trial and production would disclose the representative's mental impressions,
28 conclusions, opinions and legal theories. However, subject to and without waiving said objection,

1 Plaintiff directs Defendant Pinnacle to the documents that had been produced previously.

2 **ARGUMENT:**

3 This case involves a claim by plaintiff that PINNACLE violated FDCPA regarding
4 one or more of his consumer accounts. PINNACLE has requested that plaintiff produce all
5 documents regarding the basis for his claims that PINNACLE violated the FDCPA regarding his
6 accounts. Instead, plaintiff has objected to the discovery and simply referred PINNACLE to all
7 documents that he has previously produced in this case. This response fails for two reasons.

8 First, the objections to this request are without merit.

9 Plaintiff has provided no basis for the objections that the request is overly broad and
10 unduly burdensome as required and it is unclear how the request could be overly broad and unduly
11 burdensome since it only requests that plaintiff produce the documents that he has regarding his
12 accounts that are the subject of his claims against PINNACLE. *St. Paul Reinsurance Co., Ltd. v.*
13 *Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

14 Plaintiff also appears to be raising the objection of attorney work product. If so, any
15 documents that plaintiff believes are subject to such privilege must be clearly identified and
16 described to permit PINNACLE to assess the validity of the claim. *Federal Rules of Civil*
17 *Procedure*, Rule 26 (b)(5)(A)(ii). Plaintiff has failed to comply with that requirement.

18 Second, plaintiff's attempt to refer PINNACLE to documents that have been
19 previously produced is an improper response. PINNACLE has just appeared in this case and has
20 not been served with any documents that supposedly were previously produced. In addition, the
21 response must specifically identify documents that are responsive to the request. *Frontier-Kemper*
22 *Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring
23 PINNACLE to all of the documents that may have been produced in this case by all of the parties to
24 this lawsuit does not meet the requirements or spirit of the discovery procedures.

25 A further response to this document request without objections is appropriate.

26 ///

27 ///

28 ///

REQUEST TO PRODUCE NO. 8:

All discovery served in this lawsuit by any party and all responses to that discovery.

RESPONSE TO REQUEST TO PRODUCE NO. 8:

Plaintiff objects to this Documents Request on the grounds that it is overly broad and unduly burdensome. However, subject to and without waiving said objection, Plaintiff directs Defendant Pinnacle to the documents that had been served previously. Plaintiff also directs Defendant Pinnacle and its counsel to Rule 11 of the Federal Rules of Civil Procedure.

ARGUMENT:

PINNACLE appeared late in this lawsuit. Substantial discovery has apparently taken place in this case prior to PINNACLE's appearance. Several defendant's have settled with plaintiff and been dismissed from the lawsuit.

Plaintiff is the only viable source of all discovery that has taken place in this case since several parties have been dismissed.

This request asks for copies of all discovery including responses served in this case. The objections served in response to this request as well as the balance of the response are not meritorious.

Instead, plaintiff has objected to the discovery and simply referred PINNACLE to all documents that he has previously produced in this case. This response fails for two reasons.

First, the objections to this request are without merit.

Plaintiff has provided no basis for the objections that the request is overly broad and unduly burdensome as required and it is unclear how the request could be overly broad and unduly burdensome since it only requests that plaintiff produce the discovery that has taken place in this case. *St. Paul Reinsurance Co., Ltd. v. Commercial Fin'l Corp.* (ND IA 2001) 198 FRD 508, 512.

Second, plaintiff's attempt to refer PINNACLE to documents that have been previously produced is an improper response. PINNACLE has just appeared in this case and has not been served with any documents that supposedly were previously produced. In addition, the response must specifically identify documents that are responsive to the request. *Frontier-Kemper Constructors, Inc. v. Elk Run Coal Co., Inc.* (S.D. W. Va. 2007) 246 FRD 522, 528. Referring

PINNACLE to all of the documents that may have been produced in this case by all of the parties to this lawsuit does not meet the requirements or spirit of the discovery procedures.

A further response to this document request without objections is appropriate.

Dated: September 8, 2008

LAW OFFICES OF TIMOTHY P. JOHNSON

By: /S/ Timothy P. Johnson
TIMOTHY P. JOHNSON
Attorneys for Defendant PINNACLE CREDIT
SERVICES, LLC

Tpj:cww/Williams/pleadings/006

LAW OFFICES OF TIMOTHY P. JOHNSON

PROOF OF SERVICE BY MAIL

C.C.P. §1013(a), C.R.C. 2003(3), 2005(I)

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action; my business address is 17821 E. 17th Street, Suite 290, Tustin, California 92780.

On September 12, 2008, I served the foregoing document described as **SEPARATE STATEMENT REGARDING DISPUTED DISCOVERY RESPONSES SUBMITTED IN SUPPORT OF MOTION TO COMPEL FURTHER RESPONSES TO INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS** on all interested parties in this action by:

☒ placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U. S. Postal Service on the same day with postage thereon fully prepaid at Tustin, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ **BY PERSONAL SERVICE:** I caused such envelope to be delivered by hand to the offices of the addressee.

☐ **BY FACSIMILE TRANSMISSION:** From Fax No. (714) 832-1179 to the facsimile numbers listed on the attached mailing list. The facsimile machine I used complied with Rule 2003(3), and no error was reported by the machine.

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I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

EXECUTED on September 12, 2008 at Tustin, California.

/S/ Carol w. Wiese
CAROL W. WIESE

Williams v. Trans Union, et al.
USDC, Case No. C-07-5956 CRB

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